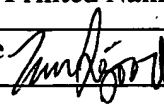


CERTIFICATE OF HAND DELIVERY

I hereby certify that this correspondence is being hand delivered to the U.S. Patent and Trademark Office, Customer Service Window, Room 1B03, Crystal Plaza Building 2, Arlington, Virginia 22202

| | | |
|---|-----------------------------|------------------|
| Typed or Printed Name | TAMARA LIVENGOOD | |
| Signature  | Date 4/4/02 | |
| <p style="text-align: center;">PETITION Under 37 CFR 1.53(e)</p> <p>Address to: Commissioner for Patents Washington, D.C. 20231</p> | Attorney Docket | LIFE-029 |
| | First Named Inventor | Kermani |
| | Application Number | 09/974,597 |
| | Filing Date | October 10, 2001 |
| | Group Art Unit | N/A |
| | Confirmation No. | 7123 |
| | Examiner Name | N/A |
| Title: DETERMINATION OF SAMPLE VOLUME ADEQUACY IN BIOSENSOR DEVICES | | |



07/23/2002 AKELLEY 00000011 500815
01 FC:105 130.00 CH

Sir:

This Petition Under 37 CFR 1.53(e) is in response to the following: (1) a Notice of Incomplete Nonprovisional Application mailed on November 9, 2001 for failure to provide drawings in the above-referenced application and (2) a Request for Substitute Papers mailed on March 19, 2002 stating that the papers (which include a Transmittal Cover Page, a Copy of Notice of Incomplete Nonprovisional Application, the Declaration, a notice of Change of Correspondence, 5 sheets of drawings, a Recordation Form Cover Sheet and an Assignment) mailed by Applicant on December 10, 2001 are no longer in a condition to become part of the application due to the U.S. Postal Service sanitization process.

Background Information

On October 10, 2001, Applicant filed the subject application with the U.S.P.T.O. as evidenced by the attached copy of the Notice of Incomplete Nonprovisional Application Filing /Receipt date. Due to an unintentional mistake on behalf of Applicant, the drawings referenced in the application were not mailed with the application. On November 9, 2001, a Notice of Incomplete Nonprovisional Application was mailed to Applicant informing Applicant of the lack of drawings. On December 10, 2001 in response to such Notice, Applicant timely filed such drawings with the U.S.P.T.O. Due to no fault of the Applicant, the drawings were temporarily lost or held by the U.S. Postal Service, and as a result, were not received by the U.S.P.T.O. until January 17, 2002, which date has been designated by the U.S.P.T.O. as the filing date of the application as indicated by a Request for Substitute Papers mailed on March 19, 2002.

Applicant is Entitled to a Filing Date of October 10, 2001

For the reasons provided below, Applicant believes it is entitled to a filing date of October 10, 2001 and hereby requests such filing date be made official.

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Applicant herein asserts that the drawings referenced in the application filed on October 10, 2001 are not necessary to meet the requirements under 35 U.S.C. §111 and §113 and under 37 C.F.R. §1.71 and §1.75. Furthermore, all other requirements, including the payment of fees, were also met by the application as filed on October 10, 2001. As such, the application as filed on October 10, 2001 is considered to be a complete application under such requirements.

Further, §601.1(f) of the M.P.E.P states that "It has been USPTO practice to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 U.S.C. §113." The subject application contains 22 claims directed to a method.

Accordingly, Applicant requests that it be granted a filing date of October 10, 2001, which date is evidenced by copy of the Notice of Incomplete Nonprovisional Application Filing /Receipt date.

Upon receipt of an Official Filing Receipt indicating that the application has been granted a filing date of October 10, 2001, Applicant shall submit a Preliminary Amendment redacting all references to the drawings if such is required.


Submission of Substitute Papers

In response to the Request for Substitute Papers, enclosed herewith are copies of all documents identified in item (2) above as they were filed on December 10, 2001.

The Commissioner is hereby authorized to charge any fees under 37 C.F.R. § 1.17(i) which may be required by this paper, or to credit any overpayment, to Deposit Account No. 50-0815.

Respectfully submitted,
BOZICEVIC, FIELD & FRANCIS LLP

Date: 4/3/02

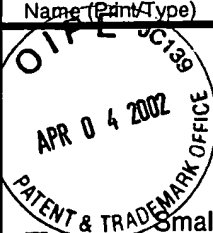
By: 
Carol M. LaSalle
Registration No. 39,740

BOZICEVIC, FIELD & FRANCIS LLP
200 Middlefield Road, Suite 200
Menlo Park, CA 94025
Telephone: (650) 327-3400
Facsimile: (650) 327-3231

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CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231.

| | | | | | |
|---|--------------|-----------|----------------------|-------------------|------------|
| Name (Print/Type) | Donna Macedo | Signature | D. Macedo | Date | 12-10-2001 |
|  <p style="font-size: 1.2em; font-weight: bold;">TRANSMITTAL</p> <p>Small Entity <input type="checkbox"/> Large Entity <input type="checkbox"/></p> | | | Application Number | 09/974,597 | |
| | | | Confirmation Number | 7123 | |
| | | | Filing Date | October 10, 2001 | |
| | | | First Named Inventor | Mahyar Z. Kermani | |
| | | | Examiner | Unassigned | |
| | | | Group Art | N/A | |
| | | | Attorney Docket No. | LIFE029 | |

| ENCLOSED: | Claims | No. of claims as filed or after amendment | Most claims previously paid for | # Extra Claims | Rate | Totals |
|--|------------------------|---|---------------------------------|----------------|------|--------|
| <input type="checkbox"/> Amendment Under Rule <input type="checkbox"/> 37 CFR § _____ <input type="checkbox"/> Pages _____ | Total | | | | | \$ - |
| | Independent | | | | | \$ - |
| | Multiple | | | | | |
| | Total Extra Claim Fees | | | | | \$ - |

| | |
|---|--|
| <input type="checkbox"/> Applicants Petition for an Extension of time from _____ to _____ | A _____ month extension was previously filed and paid for thereby reducing the basic fee |
| Fee _____ | |


| | | |
|---|----------------|---------------------|
| <input checked="" type="checkbox"/> R sponse to Notice of Incomplete Nonprovisional appl. (with copy of formalities letter) | | |
| <input type="checkbox"/> Filing Fee | | Fee _____ |
| <input checked="" type="checkbox"/> Executed Declaration | Pages <u>3</u> | Surcharge Fee _____ |
| <input checked="" type="checkbox"/> Other <u>Change of Correspondence</u> | | Fee _____ |
| <u>5 Sheets of Figures</u> | | Fee _____ |
| | | Fee _____ |
| | | Fee _____ |
| | | Subtotal \$ - |

| | | |
|---|-------------|---------------|
| <input type="checkbox"/> Information Disclosure Statement | | |
| <input type="checkbox"/> PTO Form 1449 | Pages _____ | |
| <input type="checkbox"/> _____ Copies of Cited References | | |
| <input type="checkbox"/> Other _____ | | |
| | | Fee _____ |
| | | Subtotal \$ - |

| | | |
|---|-------------|-----------|
| <input type="checkbox"/> R sponse to Notice to Comply (with copy of Notice to Comply) | | |
| <input type="checkbox"/> Sequence Listing Certification | | |
| <input type="checkbox"/> Paper Copy of Sequ nc Listing | Pages _____ | |
| <input type="checkbox"/> Diskette in computer-readable format | | |
| <input type="checkbox"/> Other _____ | | Fee _____ |

DOCKETED

12/10/01

| | | |
|--|---|---|
| <input type="checkbox"/> Terminal Disclaimer | | Fee |
| <input type="checkbox"/> Appeal to Board of Appeals and Appeal Communication to Group | | |
| <input type="checkbox"/> Notice of Appeal | Pages _____ | Fee _____ |
| <input type="checkbox"/> Appeal Brief in Triplicate | Pages _____ | Fee _____ |
| <input type="checkbox"/> Reply Brief | Pages _____ | Fee \$ - |
| | | Subtotal \$ - |
| <input type="checkbox"/> Other Enclosures and/or Fees _____ | | Fee _____ |
| <input type="checkbox"/> Change of Correspondence Address | | |
| <input checked="" type="checkbox"/> Return Receipt Postcard | | TOTAL FEES \$ - |
| <p>The Commissioner is authorized to charge any fees which may be required, or credit any overpayment to Deposit Account 50-0815. If additional fees are required, including extensions of time, please consider this a petition therefore.</p> | | |
| SIGNATURE OF APPLICANT, ATTORNEY OR AGENT REQUIRED | | |
| Name (Print/Type) | Carol M. LaSalle | Registration No. 39,740 |
| Signature |  | Date 12-10-2001 |
| Firm Name | Bozicevic, Field & Francis LLP | Address 200 Middlefield Road, Suite 200 |
| City | Menlo Park | State California zip 94025 |
| Telephone - Direct Dial | 650-327-3400 | Facsimile 650-327-3231 |

Application No. 09/974,597 Attorney Docket No. LIFE029 Page 2 of 2



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 UNITED STATES PATENT AND TRADEMARK OFFICE
 WASHINGTON, D.C. 20231
 www.uspto.gov

| APPLICATION NUMBER | FILING/RECEIPT DATE | FIRST NAMED APPLICANT | ATTORNEY DOCKET NUMBER |
|--------------------|---------------------|-----------------------|------------------------|
| 09/974,597 | 10/10/2001 | Mahyar Z. Kermani | LFS-122 |

000027777

 AUDLEY A. CIAMPORCERO JR.
 JOHNSON & JOHNSON
 ONE JOHNSON & JOHNSON PLAZA
 NEW BRUNSWICK, NJ 08933-7003

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J & J PAT. DKT. SECTION

CONFIRMATION NO. 7123

FORMALITIES LETTER

OC000000007052391

Date Mailed: 11/09/2001

NOTICE OF INCOMPLETE NONPROVISIONAL APPLICATION

FILED UNDER 37 CFR 1.53(b)

A filing date has NOT been accorded to the above-identified application papers for the reason(s) indicated below.

All of the items noted below and a newly executed oath or declaration covering the items must be submitted within TWO MONTHS of the date of this Notice, unless otherwise indicated, or proceedings on the application will be terminated (37 CFR 1.53(e)).

The filing date will be the date of receipt of all items required below, unless otherwise indicated. Any assertions that the item(s) required below were submitted, or are not necessary for a filing date, must be by way of petition directed to the attention of the Office of Petitions accompanied by the \$130.00 petition fee (37 CFR 1.17(h)). If the petition states that the application is entitled to a filing date, a request for a refund of the petition fee may be included in the petition.

- The application was deposited without drawings. 35 U.S.C. 113 (first sentence) requires a drawing "where necessary for the understanding of the subject matter sought to be patented." Applicant should reconsider whether the drawings are necessary under 35 U.S.C. 113 (first sentence).

The required items noted below SHOULD be filed along with any items required above. The filing date of this nonprovisional application will be the date of receipt of the items required above.

- The oath or declaration is unsigned.

COPY FORWARDED TO ASSIGNEE

 DATE: 11/16/01
 SIGNED: CEIL SURMAN
A copy of this notice **MUST** be returned with the reply.

KSAYSON

Customer Service Center

Initial Patent Examination Division (703) 308-1202

PART 1 - ATTORNEY/APPLICANT COPY